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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,643	08/01/2003	Roger Harquail French	CL2037USCIP	5850

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EXAMINER

CHACKO DAVIS, DABORAH

ART UNIT	PAPER NUMBER
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1756

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/632,643

Applicant(s)

FRENCH ET AL.

Examiner

Daborah Chacko-Davis

Art Unit

1756

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 57-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-34, 37-50, 53-56 is/are rejected.
- 7) ☒ Claim(s) 35,36,51 and 52 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 06/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group II, (claims 11-56) in the reply filed on January 25, 2006, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1-10, and 57-60, are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### ***Claim Objections***

2. Claims 35-36, and 51-52, are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only, and/or cannot depend from any other multiple dependent claims. See MPEP § 608.01(n). Accordingly, the claims 35-36, and 51-52, have not been further treated on the merits.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 11-17, 19-21, 23-30, 32-34, 37-43, 45-47, 49-50, 53-56, are rejected under 35 U.S.C. 102(e) as being anticipated by U. S. Patent No. 6,824,930 (Wheland et al., hereinafter referred to as Wheland).

Wheland, in the abstract, in col 2, lines 63-67, in col 3, lines 1-22, and lines 54-59, in col 6, lines 60-67, in col 25, lines 29-49, discloses an organic composition (optical element) that has an absorbance/micrometer of  $< 1$  in a wavelength range of 140 to 186 nm, and is subjected to extracting means, wherein an optical element (optically transparent composition of absorption less than 1, i.e., transparent) is disposed between the source and the receptor, and disposing in the path of the emitted radiation (140nm to 186nm em radiation) a receptor (substrate or target on which an optical image is formed) responsive to the pattern of electromagnetic radiation so as to form a pattern (optical image) on the receptor, said optical element (optically transparent composition) includes an amorphous polymer comprising a copolymer of linear hydrofluorocarbons (includes photochemically active species) having at least 2 carbon atoms, no adjacent C-H bonds longer than two (CH-CH) (i.e.,  $(CH_2)_n$ , where  $n=1$ ), no  $CH_2-CH_3$  radicals (i.e., only monomeric units of  $CX_2=CH_2$ ), no C-F bonds longer than 6 (i.e.,  $(CF_2)_n$ , where  $n=6$ ) (claims 11, 25, 37 and 53). Wheland, in col 15, lines 55-67, in col 16, lines 1-19, in col 30, lines 49-56, discloses the claimed organic composition with photochemically active species (has absorbance in UV) that is dried under nitrogen and under a pump vacuum, and includes oxygen and moisture (solvent) in a very small amount (less than 1ppm) (claims 12, 16-17, 29-30, 38, 42-43, and 54-55). Wheland, in col 24, lines 1-3, discloses that the organic composition includes a liquid (is viscous)

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such as  $\text{CF}_3\text{CFHCFHCF}_2\text{CF}_3$  (claims 13-14, 21, 26-27, 34, 39-40, and 47). Wheland, in col 5, lines 56-67, in col 6, lines 1-26, discloses that the transparent fluoro polymer composition includes fluoroethers including perfluoro alkyl radicals, perfluoroalkenyl radicals etc. (claims 15, 28, 41, and 56). Wheland, in col 15, lines 1-40, and in col 16, lines 3-7, discloses the claimed perfluoro compound as the optically transparent composition (claims 19-20, 32-33, and 45-46). Wheland, in col 16, lines 13-15, in col 18, lines 48-54, in col 21, lines 44-51, and in col 25, lines 35-42, discloses that after polymerizing the solution was purged with inert gas (nitrogen) and filtered through a microfiber syringe (molecular sieves) (claims 23-24, and 49-50).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 18, 31, and 44, are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,824,930 (Wheland et al., hereinafter referred to as Wheland) in view of U. S. Patent No. 4,975,300 (Deviny).

Wheland is discussed in paragraph no. 4.

The difference between the claims and Wheland is that Wheland does not disclose that the compound (optically transparent composition) with photoactive species includes perfluoro-N-methylmorpholine (claims 18, 31, and 44).

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Deviny, in col 4, lines 10-27, and in col 6, lines 11-34, discloses that the perfluorochemical liquid (that are also photoactive) include perfluoro-4-methylmorpholine.

Therefore, it would be obvious to a skilled artisan to modify Wheland by employing the perfluoro compound suggested by Deviny because Deviny, in col 6, lines 23-50, and in col 8, lines 1-4, discloses that the claimed morpholine is preferable because it is inert and available and cost effective as an immersion fluid composition.

7. Claims 22, and 48, are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,824,930 (Wheland et al., hereinafter referred to as Wheland) in view of U. S. Patent No. 4,678,850 (Hatzakis et al., hereinafter referred to as Hatzakis).

Wheland is discussed in paragraph no. 4.

Wheland, in col 16, lines 13-15, in col 18, lines 48-54, in col 21, lines 44-51, and in col 25, lines 35-42, discloses that after polymerizing, the solution was purged with inert gas (nitrogen) and filtered through a microfiber syringe (molecular sieves).

The difference between the claims and Wheland is that Wheland does not disclose that the compound is subjected to freeze-thaw fractional distillation (claims 22, and 48).

Hatzakis, in col 2, lines 20-41, and in col 4, lines 4-22, discloses a photoactive compound such as halogenated organic compound that is subjected freeze thawing and fractional distillation.

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Therefore, it would be obvious to a skilled artisan to modify Wheland by employing the method of freeze thawing and fractional distillating the halogenated polymer as taught by Hatzakis because Hatzakis, in col 4, lines 4-22, discloses that performing fractional distillation enables the removal of deleterious impurities, and freeze-thawing enables the removal of dissolved air/oxygen in the monomer thereby preventing weak linkages in the polymer.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daborah Chacko-Davis whose telephone number is (571) 272-1380. The examiner can normally be reached on M-F 9:30 - 6:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark F Huff can be reached on (571) 272-1385. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

dcd  
MD

March 30, 2006.



**JOHN A. MCPHERSON**  
PRIMARY EXAMINER